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PILARCITA SAYAMAN and ALICIA MALDONADO

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

PILARCITA SAYAMAN and ALICIA
MALDONADO, individuals, on behalf
of themselves, and on behalf of all
persons similarly situated,

Plaintiffs,

vs.

BAXTER HEALTHCARE
CORPORATION, a Delaware
Corporation, and Does 1 to 10,

Defendants.

Case No. **CV 10-1049 VBF - JEM**
(Class Action)

~~PROPOSED~~ ORDER AWARDING
ATTORNEYS' FEES AND
LITIGATION EXPENSES TO CLASS
COUNSEL

Hearing Date: March 21, 2011
Hearing Time: 1:30 p.m.

Assigned to: Hon. Valerie Fairbanks

Complaint Filed: February 12, 2010

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1 This matter having come before the Court for hearing, pursuant to the order of
2 this Court dated November 22, 2010 [Doc. No. 28], on the application of Plaintiffs
3 for consideration of final approval of the settlement and for consideration of the
4 application for an award of attorneys' fees and costs. Due and adequate notice
5 having been given to the Class as required in said order, and the Court having
6 considered all papers filed and proceedings had herein and otherwise being fully
7 informed of the premises and good cause appearing therefor, it is

8 **HEREBY ORDERED THAT:**

9 1. The Court determines that an award of attorneys' fees to Class Counsel
10 under the common fund doctrine in the amount of \$650,000, representing 25% of the
11 \$2,600,000.00 settlement value to the Settlement Class, is fair, reasonable and
12 appropriate. Counsel for the Class performed work which benefitted the Settlement
13 Class and expended substantial time and effort in litigating this matter. An award of
14 attorney's fees in this amount compares favorable to the accepted benchmark of
15 attorney's fees awards in common fund cases.

16 2. The substantial recovery obtained and the results achieved, along with
17 the risks of the litigation, the skill required, quality of the work, the contingent nature
18 of the fee, the financial burden carried by Class Counsel, and awards made in similar
19 cases, all justify the requested attorneys' fee and cost award. The work of class
20 counsel on behalf of the Class resulted in the creation of a non-reversionary common
21 fund with a total settlement value of \$2,600,000.

22 3. Class counsel prosecuted this case on a contingent basis. The Court
23 finds that there is a substantial difference between the risk assumed by attorneys
24 being paid by the hour and attorneys working on a contingent fee basis. The attorney
25 being paid by the hour can go to the bank with his fee. The attorney working on a
26 contingent basis can only log hours while working without pay towards a result that
27 will hopefully entitle him to a market place contingent fee taking into account the
28 risk of the undertaking. Otherwise, the contingent fee attorney receives nothing.

1 Class Counsel subjected themselves to this contingent fee market risk in this all or
2 nothing contingent fee case wherein the necessity and financial burden of private
3 enforcement makes the requested award of thirty percent of the settlement value to
4 the Class appropriate.

5 4. At the time this case was brought, the result was far from certain. The
6 Defendant's practice at issue here had been in place for years and Defendant's
7 numerous defenses to the case created difficulties with proof and novel legal issues
8 for class counsel to overcome. The very substantial risks of this litigation could have
9 resulted in the Class receiving nothing if the claims were litigated.

10 5. In prosecuting this action, Class Counsel displayed the exemplary skill
11 and expertise that is necessary to successfully prosecute this wage and hour class
12 action which involved novel and difficult issues. In opposing the capable attorney
13 Thomas Kaufman, backed by his well-staffed and prestigious law firm of Sheppard
14 Mullin Richter & Hampton, on a contingent fee basis, Class Counsel had to forego
15 other employment on other cases so as to devote the necessary time and resources to
16 this case.

17 6. The Court finds that the named Plaintiffs performed their duties and role
18 as the class representatives admirably. The Court hereby awards a class
19 representative service award of \$25,000 each to named Plaintiffs Pilarcita Sayaman
20 and Alicia Maldonado, which the Court finds to be fair and reasonable, to be paid in
21 accordance with the Settlement Agreement.

22 7. The Court further finds that class counsel advanced costs and incurred
23 expenses in the amount of \$18,416.40 on behalf of the Class. These costs and
24 expenses were reasonably necessary in the prosecution of the matter, and therefore,
25 the Court awards class counsel \$18,416.40 for reimbursement of costs and expenses.

26 8. The Court also authorizes a payment of \$22,598.05 to Gilardi & Co,
27 LLC, the Settlement Administrator in this case. See Lenhart
28 declaration, Paragraph 12

1 9. For all of the above reasons, the Court hereby awards \$650,000 to
2 Class Counsel as attorneys' fees, \$18,416.40 as litigation expenses, and \$25,000 as a
3 service award to each of the two named Plaintiff, to be paid in accordance with the
4 terms of the Settlement Agreement.

5 **IT IS SO ORDERED.**

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7 Dated: March 21, 2011



Hon. Hon. Valerie Fairbank
Judge, U.S. District Court
Central District of California